

Certificate of Notice Page 1 of 3
United States Bankruptcy Court
Eastern District of Pennsylvania

In re:
Barry L. Penepacker
Debtor

Case No. 17-12111-mdc
Chapter 13

CERTIFICATE OF NOTICE

District/off: 0313-2

User: Antoinett
Form ID: pdf900

Page 1 of 1
Total Noticed: 1

Date Rcvd: Dec 22, 2017

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Dec 24, 2017.

db +Barry L. Penepacker, 506 Bridge Valley Road, Pequea, PA 17565-9703

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE. TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Dec 24, 2017

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on December 22, 2017 at the address(es) listed below:

LEON P. HALLER on behalf of Creditor U.S. BANK NATIONAL ASSOCIATION (TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY) lhaller@pkh.com, dmaurer@pkh.com/mgutshall@pkh.com
MICHAEL D. HESS on behalf of Debtor Barry L. Penepacker amburke7@yahoo.com
REBECCA ANN SOLARZ on behalf of Creditor U.S. BANK NATIONAL ASSOCIATION (TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY) bkgroup@kmlawgroup.com
United States Trustee USTPRegion03.PH.ECF@usdoj.gov
WILLIAM C. MILLER, Esq. on behalf of Trustee WILLIAM C. MILLER ecfemails@phl3trustee.com, philaecf@gmail.com

TOTAL: 5

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA**

In re: : Chapter 13
Barry L. Penepacker, :
Debtor. : Bankruptcy No. 17-12111-MDC

ORDER

AND NOW, upon consideration of the Application for Compensation and Reimbursement of Expenses dated October 3, 2017 (“the Application”),¹ in which Michael D. Hess (the “Applicant”) requests the allowance of compensation in the amount of \$2,530.00 and the reimbursement of expenses in the amount \$34.43 (the “Fee Amount”).

AND, this Court entered an Order dated October 5, 2017 (the “Dismissal Order”),² dismissing the Debtor’s chapter 13 bankruptcy case.

AND, the Dismissal Order did not provide for this Court’s retention of jurisdiction pursuant to 11 U.S.C. §349(b)(3) over any undistributed chapter 13 plan payments in the possession of the Trustee, *see, e.g., In re Matthews*, Bky. No. 10-16869, 2012 WL 33213 (Bankr. E.D. Pa. Jan. 6, 2012); *In re Lewis*, 346 B.R. 89 (Bankr. E.D. Pa. 2006).

AND, the deadline to have filed a notice of appeal of the Dismissal Order was October 19 2017. Fed. R. Bankr. P. 8002(a)(1).

AND, entry of the Dismissal Order “revests the property of the estate in the entity in which such property was vested immediately before the commencement of the case under this title.” 11 U.S.C. §349(b)(3).

It is hereby **ORDERED and DETERMINED** that:

¹ Bankr. Docket No. 27.

² Bankr. Docket No. 30.

1. Due to the failure of any party to appeal the Dismissal Order, that ruling is final. *In re Lewis*, 346 B.R. 89, 101 n.12 (Bankr. E.D. Pa. 2006).
2. Because the Applicant failed to take any action to preserve his rights prior to the entry of the Dismissal Order, this Court can determine the absence of cause for overriding the presumptive return of the unclaimed funds to the Debtor. *See, e.g., In re Matthews*, Civ. No. 12-414, 2012 WL 3263599, *4 (E.D. Pa. Aug. 9, 2012).
3. Lacking jurisdiction to consider the Application, the Application is **DENIED**. *See* L.B.R. 2016-1(f) (governing procedure for disposition of fee applications without a hearing).

Dated: December 21, 2017



MAGDELINE D. COLEMAN
UNITED STATES BANKRUPTCY JUDGE

Michael D. Hess, Esquire
Burke & Hess
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Lancaster, PA 17601-3028

William C. Miller, Esquire
Chapter 13 Trustee
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Philadelphia, PA 19107

United States Trustee
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